

110TH CONGRESS  
1ST SESSION

# S. 792

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to modify the definition of governmental plan with respect to Indian tribal governments.

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## IN THE SENATE OF THE UNITED STATES

MARCH 7, 2007

Mr. SMITH (for himself and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to modify the definition of governmental plan with respect to Indian tribal governments.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Tribal Government  
5       Equality Act of 2007”.

1 **SEC. 2. TREATMENT OF CERTAIN PENSION PLANS OF IN-**  
 2 **DIAN TRIBAL GOVERNMENTS.**

3 (a) AMENDMENT TO INTERNAL REVENUE CODE OF  
 4 1986.—The last sentence of section 414(d) of the Internal  
 5 Revenue Code of 1986 (definition of governmental plan)  
 6 is amended to read as follows: “The term ‘governmental  
 7 plan’ includes a plan established or maintained for its em-  
 8 ployees by an Indian tribal government (as defined in sec-  
 9 tion 7701(a)(40)), a subdivision of an Indian tribal gov-  
 10 ernment (determined in accordance with section 7871(d)),  
 11 an agency instrumentality (or subdivision) of an Indian  
 12 tribal government, or an entity established under Federal,  
 13 State, or tribal law which is wholly owned or controlled  
 14 by any of the foregoing.”.

15 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-  
 16 COME SECURITY ACT OF 1974.—

17 (1) IN GENERAL.—The last sentence of section  
 18 3(32) of the Employee Retirement Income Security  
 19 Act of 1974 (29 U.S.C. 1002(32)) is amended to  
 20 read as follows: “The term ‘governmental plan’ in-  
 21 cludes a plan established or maintained for its em-  
 22 ployees by an Indian tribal government (as defined  
 23 in section 7701(a)(40) of the Internal Revenue Code  
 24 of 1986), a subdivision of an Indian tribal govern-  
 25 ment (determined in accordance with section  
 26 7871(d) of such Code), an agency instrumentality

1 (or subdivision) of an Indian tribal government, or  
2 an entity established under Federal, State, or tribal  
3 law that is wholly owned or controlled by any of the  
4 foregoing.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Paragraph (14) of section 4021(b) of  
7 such Act (29 U.S.C. 1321(b)(14)) is amended  
8 to read as follows:

9 “(14) established or maintained for its employ-  
10 ees by an Indian tribal government (as defined in  
11 section 7701(a)(40) of the Internal Revenue Code of  
12 1986), a subdivision of an Indian tribal government  
13 (determined in accordance with section 7871(d) of  
14 such Code), an agency instrumentality (or subdivi-  
15 sion) of an Indian tribal government, or an entity  
16 established under Federal, State, or tribal law that  
17 is wholly owned or controlled by any of the fore-  
18 going.”.

19 (B) Section 4021(b)(2) of such Act (29  
20 U.S.C. 1321(b)(2)) is amended by striking “or  
21 which is described in the last sentence of sec-  
22 tion 3(32)”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect as if included in section 906  
3 of the Pension Protection Act of 2006.

